

**Case No. 23-55714**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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CHAYA LOFFMAN, ET AL.,

*Plaintiffs – Appellants,*

v.

CALIFORNIA DEPARTMENT OF EDUCATION, ET AL.,

*Defendants – Appellees.*

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On Appeal from the United States District Court for the  
Central District of California

District Court No. 2:23-cv-001832-JLS-MRW

The Honorable Josephine L. Staton

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**DECLARATION OF THOMAS PROUTY IN SUPPORT OF  
THE STATE-APPELLEES’  
MOTION FOR EXTENSION OF TIME**

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I, Thomas Prouty, counsel for the State-Appellees, hereby declare as follows:

1. I am counsel for Defendants-Appellees the California Department of Education and Tony Thurmond in his Official Capacity as the State Superintendent of Public Instruction (collectively, the “State-Appellees”) in the above-captioned matter. This Declaration is being submitted in support of the State-Appellees’ motion for an extension of time to file.
2. Pursuant to this Court’s August 16, 2023 Order (Dkt. 2), Appellants’ Opening Brief was originally due on September 11, 2023. On August 22, 2023, Appellants moved for a 30-day extension of time to file their

- Opening Brief. (Dkt. 9) On behalf of the State-Appellees, I consented to the requested relief, and the motion was granted on August 29, 2023, which made the Opening Brief due by October 1, 2023. On September 26, 2023, Appellants moved for an additional 14-day extension of time to file their Opening Brief. (Dkt. 11.) On behalf of the State-Appellees, I consented to the requested relief, and the motion was granted on October 10, 2023, which made the Opening Brief due October 25, 2023 and the State-Appellees' Answering Brief due November 22, 2023. (Dkt. 12.)
3. Appellants filed their Opening Brief on October 25, 2023. (Dkt. 13.)  
The Opening Brief is 62 pages, 13,981 words, and its Statement of Issues identifies 6 issues. (*Id.*)
  4. On November 1, 2023, nine (9) separate amicus briefs were filed in support of Appellants. (Dkts. 20, 21, 22, 23, 24, 26, 34, 35, 36.)
  5. The State-Appellees are requesting an extension of time to file their Answering Brief from the initial due date of November 22, 2023 (the day before Thanksgiving) until Monday, January 8, 2024 (47 days from the original/current due date). This is the State-Appellees' first request for an extension of time in this appeal.
  6. I represented the State-Appellees throughout the district court proceedings below, and my responsibility for representing them

continues in this appeal. In addition, I am responsible for a number of preexisting litigation deadlines in other cases in the coming weeks, including:

- a. A dispositive motion hearing on November 7, 2023, requiring travel from Sacramento to Los Angeles, in *S.F., et al. v. State of Calif., et al.*, Los Angeles Superior Court, Case No. 22STCCP04310.
  - b. Oral argument in the California Court of Appeals on November 17, 2023, requiring travel from Sacramento to Orange County, in *Orange County Bd. of Educ. v. Mijares, et al.*, Fourth Appellate District, Division Three, Case No. G061717.
  - c. Preparation and filing of a dispositive motion by December 1, 2023 in *Woolard v. Thurmond, et al.*, Case No. 23-cv-02305 (E.D. Cal.).
7. Despite the continued diligence of State Appellees and myself in connection with this matter, there is substantial need for the requested extension due to the Opening Brief's size and scope, the number of amicus briefs that have been filed, and my preexisting litigation deadlines, including those referenced above.
8. I have confirmed that all parties consent to the requested extension.

9. The State-Appellees have exercised diligence and will file their  
Answering Brief within the requested timeframe.
- 10.No prejudice to any party will result from the granting of this motion.
11. The court reporter is not in default on any designated transcripts.

Executed on November 3, 2023

/s/ Thomas Prouty  
THOMAS PROUTY